

R E M A R K S

Claims 49 - 69 are in the case.

The Specification has been corrected without addition of new matter.

Please charge any additional claim fees to Deposit Account No. 04-1675.

The above claims 60-61 are copied in modified form from U.S. Patent 6,585,409 B2 issued on July 1, 2003. Said Patent has an effective earliest United States filing date of October 20, 1997. Said Patent claims earlier priority from filing in Germany August 3, 1995.

The newly presented claims have an effective United States filing date prior to October 20, 1997.

In the Office Action of July 14, 2003 in parent Serial No. 10/243,073, new prior art of SCHMIDT, German published application DE 19528590 A1, was introduced by the Examiner. This publication was dated February 06, 1997.

Applicants rely upon their domestic priority claim to earlier filed United States Application 08/764,659, now U.S. Patent 5,823,678 filed December 11, 1996, to overcome the SCHMIDT rejections under both 35 USC 102 and 103.

The publication "PHOTONICS SPECTRA", September 1994, page 184 was made of record in the parent case, Serial No. 10/243,073 together with related documents of record from Teledyne-Brown

Engineering to show that diffractive optical elements of the kind employed in the present invention and in the SCHMIDT product were on sale and published in the United States in September 1994.

It is a recognized feature of diffractive optical elements illuminated by a laser beam that a diffraction pattern including a 0 order central beam is produced together with concentric radial displays of split beams, which may or may not be visible, depending on the particular optical design of the diffraction device, and which can be selected to produce particular ring displays. The 0 order central beam does not add significant heat energy to the beam display.

The reason the claims 60 and 61 are presented in modified form is because of an appellate decision by the German Federal Patent Court on 31 March 2003 dealing with the above German priority application filed on August 3, 1995 in which diffraction claims similar to the United States claims of July 1, 2003 were rejected over prior art. An English version of the German decision, which identifies the prior art, was filed in parent application 10/243,073, together with a copy, relied upon in Germany of pertinent prior art from "Photonics Spectra", September 1994. A German language copy of the decision is available. Also filed in application 10/243,073 is a brochure from Teledyne Brown, published in the United States in 1994, and a letter from the Chief Engineer of Teledyne Brown, which together expand the disclosure in

"Photonics Spectra". Copies of all of these documents are filed herewith. Please make this prior art of record in this Application.

Respectfully,



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